

CWP-12421-2019 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-12421-2019 (O&M)
Date of Decision: 16.03.2023

Vansh

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Jaideep Verma, Advocate
for the petitioner.

Mr. Chander Mohan Sharma, Advocate,
for the respondents.

JASGURPREET SINGH PURI, J. (ORAL)

The present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondent Nos.1 to 3 to issue passport to the petitioner after describing the name of his adoptive father, namely, Sanjeev Kumar in the column of parentage.

Learned counsel for the petitioner submitted that the petitioner is a minor and there was a divorce between his natural father and mother and after divorce his mother had remarried to one Sanjeev Kumar. He further submitted that now for all intention and purposes the aforesaid Sanjeev Kumar being stepfather, is also the father of the petitioner and even otherwise also there was a valid registered Adoption Deed as well vide Annexure P-4 wherein the aforesaid Sanjeev Kumar has validly adopted the present petitioner and the aforesaid Adoption Deed cannot be disputed since it is a registered document.

He also submitted that once the Adoption Deed has been executed, the name of

the adoptive father has to be entered in the passport in the column of the parentage and in case, the same is not done that goes to detriment of the petitioner and affect his career and even otherwise also once the Adoption Deed has been executed, the earlier natural father, who has been divorced cannot be mentioned in the passport because there cannot be a situation where there can be two fathers. He also submitted that the plea which has been taken by the Passport Authorities in the short affidavit filed by them was that when the Birth Certificate was corrected and issued vide Annexure P-6, the same was not valid certificate and it was a forged certificate and the Adoption Deed was not valid in accordance with the provisions of the Adoption and Maintenance Act. Learned counsel for the petitioner submitted that both the pleas taken by the respondent-Authorities are wrong and erroneous. He submitted that along with the application, CM-14365-CWP-2021, instructions issued by the Director Health & Family Welfare-cum-Chief Registrar Birth & Death, Punjab has been attached as Annexure P-9 wherein it has been so directed to all the Civil Surgeons-cum-District Registrars Birth & Death in the State of Punjab vide memo No.M.B.H.I (1M.E.1)(adoption) P:15/5511 to 5532 dated 29.06.2015 that the Adoption Deed itself is sufficient to enter the name of the adoptive parents in the Birth Record of the child. In pursuance of the aforesaid instructions, the Additional District Registrar Birth & Death, Kapurthala vide Annexure P-10 (wrongly numbered Annexure P-9) which has been attached along with reply to application bearing CM-15891-CWP-2021 in which an office order has been passed by the aforesaid Authority on 25.05.2016 whereby it was directed that the name of the father be changed from Parveen Kumar to Sanjeev Kumar and the name of the grandfather be changed from Raj Kumar to

Surinder Kumar and the correction was made as per Section 15 of the Birth and Death Registration Act, 1969 and consequent upon the office order which has been passed by the competent authority, the Birth Certificate which has been attached with the writ petition as Annexure P-4 is valid and therefore, plea taken by the Passport Authority that it is a false certificate, is not sustainable especially in view of the fact that it has been issued in pursuance of the aforesaid order. He further submitted that so far as the second objection taken by the respondent-Passport Authority was that adoption was not in accordance with the provisions of the Act is also not sustainable in view of the fact that the petitioner is a minor and adoption has been done by way of valid registered Adoption Deed and therefore, no such plea could have been taken by the Passport Authorities. Learned counsel for the petitioner has referred to the judgment of Division Bench of this Court passed in ***LPA-249-2016*** titled as **“Mohamed Arman (minor) through her mother/legal guardian Afsar Jahan Vs. Union of India and another”** decided on 23.01.2017 and also referred to the judgment of High Court of New Delhi passed in ***LPA-357-2012*** titled as **“Ms. Teesta Chatteraj through Her Mother/Natural Guardian Smt. Rajeshwari Chatteraj Vs. Union of India”**, decided on 11.05.2012 and further also referred to the judgment of Gujarat High Court passed in **“Patel Mukesh Kumar Karshanbhai Vs. Regional Passport Authority”, 2011(25) R.C.R. (Civil) 429** in this regard. He further submitted that in view of the aforesaid clear facts and circumstances, the respondent-Passport Authority may be directed to consider and process the application of the petitioner for correction of the name of the father of the petitioner in the passport to incorporate the name of the adoptive father, namely, Sanjeev Kumar s/o Surinder Kumar in the

passport and regarding that an order may be passed after considering the aforesaid contention raised by the petitioner.

On the other hand, Mr. Chander Mohan Sharma, learned counsel for the respondents-Passport Authorities submitted that he has no objection in case a direction is issued to the Passport Authorities to consider the prayer of the petitioner in the light of the aforesaid facts and circumstances as stated by the learned counsel for the petitioner.

I have heard the learned counsel for the parties.

The only issue involved in the present case is that the petitioner is seeking rectification of the name of his father since his natural father got divorced from his mother and his mother got re-married thereafter with one Sanjeev Kumar and thereafter, one Adoption Deed was also executed. Apart from the above, even in the Birth Certificate issued by the Chief Registrar, Birth & Death, Punjab, the name of the father of the petitioner as Sanjeev Kumar has been incorporated in pursuance of an office order dated 25.05.2015. The instructions issued by the Director, Health and Family Welfare-cum-Chief Registrar Birth & Death, Punjab has also been attached along with the present petition.

After hearing the learned counsel for the parties, this Court is of the view that in view of the aforesaid facts and circumstances, it will be in the interest of justice to direct the respondent No.3-Regional Passport Officer, Jalandhar to consider the aforesaid prayer of the petitioner for incorporating the name of the adoptive father in the passport in the light of the aforesaid documents which the petitioner has attached along with the present petition and in the CM-14365-CWP-2021 pertaining to the instructions issued by the

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Director Health and Family Welfare-cum-Chief Registrar, Birth & Death, Punjab, the office order dated 25.05.2015 and the Adoption Deed dated 30.12.2015.

Let a well-reasoned speaking order be passed on the aforesaid prayer of the petitioner by respondent No.3 after considering the aforesaid documents and also in the light of the judgments which have cited by the petitioner passed in *Mohamed Arman (minor)'s case (supra)*, *Ms. Teesta Chatteraj's case (supra)* and *Patel Mukesh Kumar Karshanbhai's case (supra)*. The petitioner shall also be entitled for the grant of personal hearing either himself or through counsel. Let the entire exercise be completed within a period of two months from today.

The present petition stands disposed of.

16.03.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |